

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH CHIDI ANORUO,

Plaintiff,

vs.

ROBERT A. MCDONALD, Secretary,
Department of Veterans Affairs; JOSEPH
MOODY, AFGE Local President,

Defendants.

Case No.: 2:16-cv-441-GMN-NJK

ORDER

Pending before the Court is the Motion for Relief from Judgment, (ECF No. 46), filed by *pro se* Plaintiff Joseph Chidi Anoruo (“Plaintiff”).¹ Defendant Robert A. McDonald and Defendant Joseph Moody (collectively “Defendants”) each filed a Response, (ECF Nos. 47, 48), and Plaintiff filed a Reply, (ECF No. 49). For the reasons discussed herein, the Court DENIES Plaintiff’s Motion.

I. BACKGROUND

Plaintiff initiated this action following a decision by the Department of Veterans Affairs (“VA”) to close VA neighborhood outpatient clinics in Las Vegas, NV, and consolidate these services at the Las Vegas VA Medical Center. (Compl., ECF No. 4). Plaintiff’s main grievance was the failure of the VA and his union, the American Federation of Government Employees Local 1224 (“AFGE”), to negotiate properly and adequately address his concerns regarding the pharmacy consolidations. (*Id.* 3:4–6, 13:19–14:21). Based on this failure, *inter alia*, Plaintiff brought claims under the Federal Service Labor-Management Relations Statute (“FSLMRS”), 5

¹ In light of Plaintiff’s status as a *pro se* litigant, the Court has liberally construed his filings, holding them to standards less stringent than formal pleadings drafted by attorneys. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 U.S.C. §§ 7106(b)(2)–(3), and Federal Employees Flexible and Compressed Work Schedules
2 Act, 5 U.S.C. §§ 6120–6127. (*Id.* 13:19–14:21).

3 On December 5, 2016, the Court dismissed this action for lack of subject matter
4 jurisdiction. (ECF No. 44). In the instant Motion, Plaintiff asks the Court to reconsider its prior
5 Order pursuant to Federal Rule of Civil Procedure 60(b).

6 **II. LEGAL STANDARD**

7 Under Rule 60(b), a court may relieve a party from a final judgment, order or proceeding
8 only in the following circumstances: (1) mistake, inadvertence, surprise, or excusable neglect;
9 (2) newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged
10 judgment; or (6) any other reason justifying relief from the judgment. *Backlund v. Barnhart*,
11 778 F.2d 1386, 1387 (9th Cir. 1985). “Relief under Rule 60(b)(6) must be requested within a
12 reasonable time, and is available only under extraordinary circumstances.” *Twentieth Century-*
13 *Fox Film Corp. v. Dunnahoo*, 637 F.2d 1338, 1341 (9th Cir. 1981) (internal citations omitted).

14 A motion for reconsideration must set forth the following: (1) some valid reason why the
15 court should revisit its prior order; and (2) facts or law of a “strongly convincing nature” in
16 support of reversing the prior decision. *Frasure v. United States*, 256 F. Supp. 2d 1180, 1183
17 (D. Nev. 2003). However, a motion for reconsideration is not a mechanism for re-arguing
18 issues presented in the original filings, *Backlund*, 778 F.2d at 1388, or “advancing theories of
19 the case that could have been presented earlier, *Resolution Trust Corp. v. Holmes*, 846 F. Supp.
20 1310, 1316 (S.D. Tex. 1994) (footnotes omitted). *See also Soto-Padro v. Pub. Bldgs. Auth.*, 675
21 F.3d 1, 9 (1st Cir. 2012) (“[A] party cannot use a [motion for reconsideration] to rehash
22 arguments previously rejected or to raise ones that could, and should, have been made before
23 the judgment issued.”) (internal quotations omitted). In other words, the purpose of Rules 59(e)
24 and 60(b) is not “to give an unhappy litigant one additional chance to sway the judge.” *Durkin*
25 *v. Taylor*, 444 F. Supp. 879, 889 (E.D. Va. 1977).

1 **III. DISCUSSION**

2 In the instant Motion, Plaintiff argues that the Court “erroneously determined that all
3 [of] plaintiff[’s] claims were premised only on ‘unfair labor practice’ [] and barred by CSRA.”
4 (Mot. for Relief 6:5–8, ECF No. 46). Additionally, Plaintiff argues that the Court erroneously
5 “excluded AFGE as a defendant.” (*Id.*). Based on these alleged errors, Plaintiff asserts that the
6 Court has subject matter jurisdiction over the Complaint.

7 In response, Defendants note that Plaintiff’s mere disagreement with the Court’s Order
8 does not constitute valid reasons of a ‘strongly convincing nature’ to reverse the Court’s
9 decision. (McDonald Resp. 2:22–23, ECF No. 47; Moody Resp. at 3, ECF No. 48). Defendants
10 are correct. A motion for reconsideration should not be “used to ask the Court to rethink what
11 it has already thought.” *Motorola, Inc. v. J.B. Rodgers Mech. Contractors*, 215 F.R.D. 581, 582
12 (D. Ariz. 2003); *see also Backlund v. Barnhart*, 778 F.2d 1386, 1388 (9th Cir. 1985).

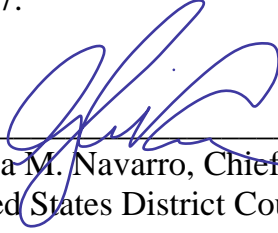
13 As explained in the previous Order, a Court must look to the true nature of an action in
14 determining whether jurisdiction exists. *See Teitelbaum v. U.S. Dep’t of Hous. & Urban Dev.*,
15 953 F. Supp. 326, 329 (D. Nev. 1996). Based on this principle, the Court found that Plaintiff’s
16 claims were premised on unfair labor practices under the CSRA and therefore outside the
17 Court’s jurisdiction. Nevertheless, Plaintiff’s Motion cites to various federal statutes and the
18 United States Constitution in an attempt to invoke this Court’s federal question jurisdiction
19 under 28 U.S.C. § 1331. (*See* Mot. for Relief 9:5–10). The Court has already rejected this
20 argument. (Order 5:22–23, ECF No. 44) (“While Plaintiff references several other statutes and
21 constitutional provisions in his Complaint, these assertions do not provide separate causes of
22 action.”). Furthermore, the Court has already rejected Plaintiff’s argument concerning AFGE.
23 (*Id.* 2:23–25) (“Plaintiff did not name AFGE as a defendant in his complaint or amended
24 complaint . . . [a]s such, AFGE is not currently a party to this action.”). Having reviewed the
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1 record in this case, the Court can discern no reason to depart from its prior Order.² Plaintiff's
2 Motion is therefore DENIED.

3 **IV. CONCLUSION**

4 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Relief from Judgment, (ECF
5 No. 46), is **DENIED**.

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7 **DATED** this 19 day of September, 2017.

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11 Gloria M. Navarro, Chief Judge
12 United States District Court
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25 ² The Court additionally rejects Plaintiff's contention that *Karahalios v. Nat'l Fed'n of Fed. Emps., Local 1263*,
489 U.S. 527, 532 (1987) is outdated and no longer good law.